

**31A-22-605.1 Preexisting condition limitations.**

- (1) Any provision dealing with preexisting conditions shall be consistent with this section, Section 31A-22-609, and rules adopted by the commissioner.
- (2) Except as provided in this section, an insurer that elects to use an application form without questions concerning the insured's health or medical treatment history shall provide coverage under the policy for any loss which occurs more than 12 months after the effective date of coverage due to a preexisting condition which is not specifically excluded from coverage.
- (3)
  - (a) An insurer that issues a specified disease policy may not deny a claim for loss due to a preexisting condition that occurs more than six months after the effective date of coverage.
  - (b) A specified disease policy may impose a preexisting condition exclusion only if the exclusion relates to a preexisting condition which first manifested itself within six months prior to the effective date of coverage or which was diagnosed by a physician at any time prior to the effective date of coverage.
- (4)
  - (a) Except as provided in this Subsection (4), a health benefit plan may impose a preexisting condition exclusion only if:
    - (i) the exclusion relates to a preexisting condition for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date from an individual licensed or similarly authorized to provide those services under state law and operating within the scope of practice authorized by state law;
    - (ii) the exclusion period ends no later than 12 months after the enrollment date, or in the case of a late enrollee, 18 months after the enrollment date; and
    - (iii) the exclusion period is reduced by the number of days of creditable coverage the enrollee has as of the enrollment date, in accordance with Subsection (4)(b).
  - (b)
    - (i) The amount of creditable coverage allowed under Subsection (4)(a)(iii) is determined by counting all the days on which the individual has one or more types of creditable coverage.
    - (ii) Days of creditable coverage that occur before a significant break in coverage are not required to be counted.
      - (A) Days in a waiting period or affiliation period are not taken into account in determining whether a significant break in coverage has occurred.
      - (B) For an individual who elects federal COBRA continuation coverage during the second election period provided under the federal Trade Act of 2002, the days between the date the individual lost group health plan coverage and the first day of the second COBRA election period are not taken into account in determining whether a significant break in coverage has occurred.
  - (c) A group health benefit plan may not impose a preexisting condition exclusion relating to pregnancy.
  - (d)
    - (i) An insurer imposing a preexisting condition exclusion shall provide a written general notice of preexisting condition exclusion as part of any written application materials.
    - (ii) The general notice shall include:
      - (A) a description of the existence and terms of any preexisting condition exclusion under the plan, including the six-month period ending on the enrollment date, the maximum preexisting condition exclusion period, and how the insurer will reduce the maximum preexisting condition exclusion period by creditable coverage;
      - (B) a description of the rights of individuals:

- (I) to demonstrate credible coverage, including any applicable waiting periods, through a certificate of credible coverage or through other means; and
  - (II) to request a certificate of credible coverage from a prior plan;
  - (C) a statement that the current plan will assist in obtaining a certificate of credible coverage from any prior plan or issuer if necessary; and
  - (D) a person to contact, and an address and telephone number for the person, for obtaining additional information or assistance regarding the preexisting condition exclusion.
- (e) An insurer may not impose any limit on the amount of time that an individual has to present a certificate or other evidence of credible coverage.
- (f) This Subsection (4) does not preclude application of any waiting period applicable to all new enrollees under the plan.

Enacted by Chapter 78, 2005 General Session